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DE RUEHPF #1426/01 2211025
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FM AMEMBASSY PHNOM PENH
TO RUEHC/SECSTATE WASHDC IMMEDIATE 7127
INFO RUCNASE/ASEAN MEMBER COLLECTIVE

UNCLAS SECTION 01 OF 03 PHNOM PENH 001426

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DEPARTMENT FOR DRL, EAP/MLS

E.O. 12958: N/A

TAGS: [PHUM](#) [PGOV](#) [CB](#)

SUBJECT: CAMBODIA LAND DISPUTES, EVICTIONS CONTINUE

REF: PHNOM PENH 1086 AND PREVIOUS

¶1. (SBU) Summary. Since the June 6 and 7 evictions of 500 families from the Tonle Bassac community (refs), there was a large-scale eviction of 168 families from the grounds of a Phnom Penh hospital on June 29. Protests from civil society led to the postponement of another forced eviction, but this and others still loom. In the provinces, land disputes and evictions are even more common and more violent. The creation of a commission to handle land disputes has neither resolved land disputes nor stopped forced evictions. The National Land Dispute Authority (NLDA) lacks judicial power to adjudicate disputes and vested interests leave the NLDA powerless to move against high-level officials. NGOs are trying to mobilize civil society to publicize and oppose forced evictions. The Community Legal Education Center (CLEC) hopes to obtain civil society support for an effort to obtain government commitment to transparency and due process in evictions. Opposition leader Sam Rainsy has put on hold plans to hold a public demonstration to protest the land issue as long as the RGC suspends forced evictions. End Summary.

Evictions Continue

¶2. (SBU) Early on the morning of June 29, police evicted 168 families from Preah Monivong Hospital in Phnom Penh. The families were dumped at a site 30 kilometers from the city center, without clean water, schools or any means of livelihood. The Monivong eviction was reportedly the result of an illegal land swap between the Cambodian government (RGC) and a large, well-connected private firm, the Royal Group. The people living near the hospital had been living there since 1988 and, according to Thun Sray, President of the NGO ADHOC, Phnom Penh's municipal government promised the residents as recently as 2002 or 2003 that they could continue to live there.

¶3. (SBU) Additional large-scale evictions are planned for communities in the Tonle Bassac area. Thun Sray said that there were as many as 12 additional evictions in the planning stage. One community of 150 families called Group 78 has been issued eviction notices, as has another called Dei Krahom (Red Earth). According to Brian Rohan, Technical Advisor to the Community Legal Education Center (CLEC), land claims of the people in this community are so solid that the CLEC has taken it on as a formal client. Under the 2001 Land Law, persons in possession of a property for five years are entitled to ownership. The people of Group 78 began settling there in 1983 and have documents showing their residence continuously over at least 20 years. As with the Tonle Bassac land, no one has demonstrated that he has a countervailing claim to the land.

¶4. (SBU) In the provinces, evictions from land are, if

anything, more common and more violent. Numerous evictions have been taking place throughout the country. Thun Sray estimated that 15-20 percent of Cambodians living in the countryside do not own any land and another 2 percent own less than half a hectare. That means that in a country in which over 80% of the population engages in subsistence farming, 45 percent of the people in the countryside have no or insufficient land to make a living.

National Land Dispute Authority Still Not Operational

¶5. (SBU) The creation of the National Land Dispute Authority (NLDA) has had no appreciable effect on land disputes and evictions. The NLDA can collect information from parties in land disputes, but has no judicial power adjudicating the disputes. NLDA Vice President (and former Secretary General of the Sam Rainsy Party) Eng Chhai Eang

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told Econoff August 4 that the NLDA appointed one of its members to draft a law to give the NLDA authority to resolve disputes and verify land titles, but after more than three months there has been no forward movement on drafting the law. Rohan suggested to us that the NLDA undermines existing organizations into which donors have sunk a great deal of time and resources, such as the Cadastral Commission, that if fully supported by the RGC would make the NLDA superfluous.

¶6. (SBU) In Chhai Eang's view, PM Hun Sen is sincere in wanting to help the poor, but the people surrounding him prevent Hun Sen from doing so by hiding the truth. He added that he believed the officials surrounding Hun Sen care only about their own financial interests, not the interests of the nation. As an example, he said that Hun Sen has ordered that land on the Cambodian Air Base across from the international

PHNOM PENH 00001426 002 OF 003

airport be redistributed to the poor on three different occasions, but the military has not allowed it to happen. Chhai Eang mentioned other examples in Battambang and Kompong Chhnang provinces. He said that sometimes the central government attempted to help, but was thwarted by local officials. He cited a case in Mondolkiri in which the MOI ruled in favor of ethnic minorities, but the provincial governor would not enforce the MOI decision.

¶7. (SBU) Eng Chhai Eang said that it was difficult to obtain cooperation from the CPP to resolve cases involving high-ranking officials. As a result, the NLDA will try to publicize low-ranking officials' cases as an example to others. In reality, the NLDA lacks the capacity to monitor cases and follow-up cases.

Sam Rainsy Party Hopes to Exploit the Issue

¶8. (SBU) Party leader Sam Rainsy continues to maintain a keen interest in the land issue, Chhai Eang said, and has met recently with NLDA President and Deputy Prime Minister Sok An. Sok An told Sam Rainsy that the NLDA has authority to stop evictions; in practice, the body has not been able to prevent any so far. Rainsy told A/DCM that he pressed Sok An to make the NLDA operational as soon as possible; the DPM countered that many NLDA members were on holiday outside Cambodia and would not return until early September. According to Rainsy, the DPM agreed that the government would halt further evictions if Rainsy would agree to postpone the SRP leader's planned demonstration later this month to protest the rising tide of evictions and illegal land grabbing. Rainsy said any future demonstration will be decided according to how the RGC handles several contentious land issues, including the Tonle Bassac case cited above. While the NLDA's authority and capacity to deal with the land issue remains an open question, Chhai Eang said he believed the SRP was gaining supporters by participating in the NLDA

and supporting the claims of victims. NGO leaders, however, refused to join the NLDA and agreed to act in an advisory capacity only. Thun Sray said he refused an invitation to join the NLDA because its lack of authority would make it ineffective and he believed that participating in the NLDA would make him a part of an unfair process, ultimately damaging his standing in the NGO community. Thun Sray also said that he wanted to move the land eviction disputes from the municipality into the court system in order to publicize the facts.

What Needs to Be Done

9 (SBU) In addition to defending the poor in land disputes, the CLEC hopes to mobilize civil society to oppose forced evictions. Like Thun Sray, CLEC believes eviction orders should originate as court decisions rather than from the municipal administration. The master plan for the development of Phnom Penh should be publicly available so that it could be referred to in disputes. He suggested that the NGO community should support three objectives: 1) Transparency in the land dispute/eviction process; 2) Due process; and 3) Following existing laws, which in many cases have been flouted.

¶10. (SBU) The UN Office of Human Rights (UNOCHR) wrote a letter to Phnom Penh Governor Kep Chuktema on July 14 to protest that the municipality's eviction practices violate Cambodia's obligations under the International Covenant on Economic, Social and Cultural Rights. (The covenant states that forced evictions "constitute gross violations of a range of internationally recognized human rights" and lists those rights.) The Governor's response, dated July 26, sidestepped the UNOCHR's complaints, claiming that the municipality was helping the urban poor to "regularize their situation" and that it could not let the people live in temporary settlements permanently. He claimed that the eviction of Group 78 was necessary for a road crossing to a bridge as part of the Phnom Penh Master Plan. UNOCHR Director Margo Picken told us that she is trying to mobilize the UN country team in Cambodia to encourage the RGC to put an end to forced evictions and to establish a fair compensation, resettlement and housing policy.

Comment:

¶12. (SBU) Given the common abuse of power by influential persons and organizations, the public's first assumption here is always that the poor are being victimized by the powerful, and in many cases that is the reality. In some instances,

PHNOM PENH 00001426 003 OF 003

different officials over the span of several years have granted title to the same property to different petitioners. Sorting out the mess of land titles in Cambodia would be a challenge to any government, no matter how noble their intentions. In the short term, however, greater transparency and observance of due process and existing legislation on land ownership would go far toward restoring public trust in the authorities and the credibility of the NLDA. It is also important that when evictions are unavoidable, the persons being moved are given fair compensation, and a place to live that enables them to pursue a viable livelihood and schooling for their children. There is great interest in the NGO community in the Embassy making its views known on this issue. We will be looking for ways to voice our concerns over the human rights aspects of the issue.

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